Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ORVILLE C. HUGGINS

Appeal No. 2001-1765
Application No. 09/159,972

HEARD: JUNE 13, 2002

Before COHEN, STAAB, and NASE, Administrative Patent Judges.
COHEN, Administrative Patent Judge.

## DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 9. Subsequent to appeal, appellant canceled claims 6 through 8 (Paper No. 16). Thus, we have before us for review claims 1 through 5 and 9, all of the claims remaining in the application.

Appellant's invention pertains to an apparatus for printing and dispensing labels releasably adhered to a carrier web. A basic understanding of the invention can be derived from a

reading of exemplary claims 1 and 2, respective copies of which appear in the APPENDIX to the brief (Paper No. 10).

As evidence of obviousness, the examiner has applied the documents listed below:

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| Hamisch, Jr., et al (Hamisch) | 4,957,379 | Sep. 18, 1990 |
| Southwell et al (Southwell) | 5,232,540 | Aug. 3, 1993 |
| Goodwin et al (Goodwin) | 5,788,384 | Aug. 4, 1998 |

The following rejection is before us for review.

Claims 1 through 5 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodwin in view of Southwell and Hamisch.

The full text of the examiner's rejection and response to the argument presented by appellant appears in the answer (Paper No. 12), while the complete statement of appellant's argument can be found in the brief (Paper No. 10).

OPINION

In reaching our conclusion on the obviousness issue raised in this appeal, this panel of the board has carefully considered appellant's specification and claims, the applied teachings,[1] and the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determination which follows.

We cannot sustain the rejection of appellant's claims on appeal.

Each of appellant's independent claims 1, 3, 4, and 9, drawn to an apparatus for printing and dispensing labels releasably adhered to a carrier web, set forth the feature, in differing terms, of a slip-clutch that acts to limit the amount of driving

[1] In our evaluation of the applied prior art, we have considered all of the disclosure of each document for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

force applied to the web by a take-up roll, with the take-up roll being one of a pair of rolls for advancing the carrier web beyond a delaminator. Independent claim 2 recites an apparatus for printing and dispensing labels releasably adhered to a carrier web with the feature of a take-up roll disposed downstream of a delaminator, and wherein first, second, and third gears are interfaced such that the second gear drives a platen roll and the third gear drives a slip clutch which in turn drives the take-up roll.

The Goodwin document teaches a printer (Fig. 4) wherein a drive roll 65 (downstream of a platen roll 63) is powered so that the portion of a carrier web W between a peel bar 54 (delaminator of labels L) and the nip of rolls 65, 66 is under tension. The drive roll is not driven by a slip clutch.

The labeling machine of Southwell (Fig. 2) relies upon a slip clutch for a take-up reel 66, while applying a clutch/brake set (not a slip clutch) for powering the label advancing roller 60 (acting in association with idler 62) downstream of the stripper 40. Thus, at best, it appears to us that Southwell

would have been suggestive of powering the drive roll 65 of Goodwin with a clutch/brake set, not a slip clutch.

Turning now to the Hamisch document, we readily perceive that the teaching therein of a printing apparatus (Fig. 7) would have only been suggestive of a slip clutch for a carrier web rewinder 180 (column 8, lines 10 through 13; Fig. 6D). The patentee Hamisch points out (column 6, lines 36 through 48) that a tensioning roll 136 is driven at a slightly greater peripheral speed than the peripheral speed of a platen roll 129 (Fig. 7) such that a carrier web CW is always under tension from the place where a print head 111 and a platen roll 129 cooperate around a peel roller 134 to the nip of the rolls 136, 137; with slippage taking place between the tensioning roll 136 and the carrier web CW. Thus, Hamisch clearly does not teach and would not have been suggestive of driving the tensioning roll via a slip clutch.

As evident from our review of the respective patents to Southwell and Hamisch, supra, they each disclose slip clutch utilization, but not for driving a drive roll such as drive roll 65 of Goodwin. Thus, the evidence of obviousness before us would not have been suggestive of the subject matter of claims 1, 3, 4,

and 9. Further, it is also apparent to us that the combined teachings of Goodwin, Southwell, and Hamisch would not have been suggestive of first, second, and third gears interfaced such that the second gear drives a platen roll and the third gear drives a slip clutch, which in turn drives the take-up roll, as set forth in claim 2.

## REMAND TO THE EXAMINER

We remand this application to the examiner to assess the language in claim 1 as to the pair of cooperating rolls being "the sole means" for advancing the carrier web beyond the delaminator, in the context of the description requirement of 35 U.S.C. § 112, first paragraph. It does not appear that the underlying disclosure descriptively supports the rolls being the "sole means" for advancing the web beyond the delaminator, a limitation added (Paper No. 6) subsequent to the filing of the application.

In summary, this panel of the board has not sustained the rejection of appellant's claims under 35 U.S.C. § 103, and has remanded the application to the examiner to consider the matter discussed above.

The decision of the examiner is reversed.

REVERSED AND REMANDED

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| IRWIN CHARLES COHEN<br>Administrative Patent Judge | ) | |
| LAWRENCE J. STAAB<br>Administrative Patent Judge | ) | BOARD OF PATENT APPEALS AND INTERFERENCES |
| JEFFREY V. NASE<br>Administrative Patent Judge | ) | |

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